REMARKS

In view of the following discussion, the Applicants submit that none of the claims now pending in the application are made obvious under the provisions of 35 U.S.C. §103. Thus, the Applicants believe that all of these claims are now in allowable form.

I. OBJECTION TO CLAIM 10

Claim 10 stands objected to for informalities. In response, the Applicants have amended claim 10, in accordance with the Examiner's request, to end in a period. As such, the Applicants respectfully request that the objection to claim 10 be withdrawn.

II. REJECTION OF CLAIMS 1-5, 7-10, 32-35, AND 36-40 UNDER 35 U.S.C § 103

A. Claims 1-3, 5, 7-10, 32-34, and 36-40

Claims 1-3, 5, 7-10, 32-34, and 36-40 stand rejected as being made obvious by the Krishnan patent application (U.S. Patent Application Publication No. 2005/0243862, published November 3, 2005, hereinafter "Krishnan") in view of the Stark et al. patent application (U.S. Patent Application Publication No. 2003/0149735, published August 7, 2003, hereinafter "Stark"). In response, the Applicants have amended independent claims 1 and 32 in order to more clearly recite aspects of the invention.

The Examiner's attention is respectfully directed to the fact that Krishnan and Stark, singly or in any permissible combination, fail to teach, show or suggest offloading a processing request to any one of a plurality of offload servers if the load on a primary server exceeds a first threshold, while continuing to serve other processing requests at the primary server, as positively claimed by the Applicants.

The Examiner acknowledges that "Krishnan does not explicitly indicate offloading at least a portion of said processing requests to any one of said plurality of offload servers" (Office Action, Page 4). The Examiner submits, however, that this limitation is taught by Stark. The Applicants respectfully disagree.

By contrast, Stark teaches that a "[v]ice node takes the role of [a] master node if it [the master node] fails" (Stark, paragraph 0051, emphasis added). In other words, Stark does not teach that part of the load on a primary server is offloaded to an offload

server while another part of the load continues to be served by the primary server, as claimed by the Applicants, but rather that all of the load on the master node is moved to the vice node (*i.e.*, the vice node replaces the master node). That is, the vice node operates instead of the master node, not in cooperation with the master node.

Moreover, neither Krishnan nor Stark teaches or suggests that load is offloaded to a plurality of offload servers in accordance with thresholds for the offload servers, such that if the thresholds for all of the offload servers are exceeded, offloading stops until the load on at least one of the offload servers falls below its threshold, as claimed by the Applicants. As discussed above, Krishnan fails to teach or suggest the use of offload servers. As also discussed above, Stark fails to teach or suggest offloading only a portion of a primary server's load to an offload server, and certainly does not teach or suggest that the offload server has any sort of threshold applied to it.

Applicants' independent claims 1 and 32 specifically recite:

> 1. A method, in a network comprising a primary server and a plurality of offload servers, for dynamic offloading of processing requests from said primary server to any one of said plurality of offload servers, the method comprising the steps of:
>
> determining a load on said primary server;
>
> if the load on said primary server is less than a first threshold, serving processing requests at said primary server;
>
> only if the load on said primary server exceeds said first threshold, then offloading at least a portion of said processing requests to any one of said plurality of offload servers while said primary server continues to serve a remainder of said processing requests, wherein each of said plurality of offload servers is configured to process said processing requests and is associated with a respective offload threshold and the at least a portion of said processing requests is the only work handled by said plurality of offload servers, wherein the offloading is performed in accordance said respective offload threshold for each of the plurality of offload servers, such that if said respective offload threshold is exceeded for every one of the plurality of offload servers, said offloading is stopped until a load on one of said plurality of offload servers falls below said respective offload threshold; and
>
> if the load on said primary server exceeds a second threshold, throttling at least one of said processing requests. (Emphasis added)

32. A method for allocating processing requirements on an Internet Protocol network between a primary server and a plurality of offload servers, comprising:

periodically evaluating processing requests to determine a load on said primary server;

if said load exceeds a first threshold, for a predetermined period of time directing at least one of said processing requests to any one of said plurality of offload servers while said primary server continues to serve a remainder of said processing requests, wherein each of said plurality of offload servers is configured to process said at least one of said processing requests and is associated with a respective offload threshold and said at least one of said processing requests is the only work handled by said plurality of offload servers, wherein the directing is performed in accordance said respective offload threshold for each of the plurality of offload servers, such that if said respective offload threshold is exceeded for every one of the plurality of offload servers, said offloading is stopped until a load on one of said plurality of offload servers falls below said respective offload threshold;

only if said load does not exceed said first threshold, directing said processing requests to said primary server; and

if the load on said primary server exceeds a second threshold, throttling at least one of said processing requests. (Emphasis added)

As neither Krishnan nor Stark teaches or suggests offloading a processing request to any one of a plurality of offload servers if the load on a primary server exceeds a first threshold, while continuing to serve other processing requests at the primary server or that load is offloaded to a plurality of offload servers in accordance with thresholds for the offload servers, such that if the thresholds for all of the offload servers are exceeded, offloading stops until the load on at least one of the offload servers falls below its threshold, Krishnan in view of Stark fails to render obvious the Applicants' independent claims 1 and 32.

Furthermore, dependent claims 2-3, 5, 7-10, 33-34, and 36-40 depend, either directly or indirectly, from claims 1 and 32, and recite additional limitations. As such, and for at least the exact same reason set forth above, the Applicants submit that claims 2-3, 5, 7-10, 33-34, and 36-40 are also patentable and not made obvious by Krishnan in view of Stark. As such, the Applicants respectfully request the rejection of claims 1-3, 5, 7-10, 32-34, and 36-40 under 35 U.S.C. §103 be withdrawn.

2. Claims 4 and 35

Claims 4 and 35 stand rejected as being obvious over Krishnan in view of Stark and further in view of the Nepustil patent (U.S. Patent No. 6,240,454, issued May 29, 2001, hereinafter "Nepustil"). In response, the Applicants have amended independent claims 1 and 32 as discussed above in order to more clearly recite aspects of the invention.

As discussed above, Krishnan and Stark, singly or in any permissible combination, fail to teach, show or suggest offloading a processing request to any one of a plurality of offload servers if the load on a primary server exceeds a first threshold, while continuing to serve other processing requests at the primary server, as positively claimed by the Applicants. Nepustil fails to bridge this gap in the teachings of Krishnan and Stark. Thus, Krishnan in view of Stark and further in view of Nepustil fails to render obvious the Applicants' independent claims 1 and 32.

Furthermore, dependent claims 4 and 35 depend, either directly or indirectly, from claims 1 and 32, and recite additional limitations. As such, and for at least the exact same reason set forth above, the Applicants submit that claims 4 and 35 are also patentable and not made obvious by Krishnan in view of Stark and further in view of Nepustil. As such, the Applicants respectfully request the rejection of claims 4 and 35 under 35 U.S.C. §103 be withdrawn.

III. CONCLUSION

Thus, the Applicants submit that all of the presented claims fully satisfy the requirements of 35 U.S.C. §103. Consequently, the Applicants believe that all of the presented claims are presently in condition for allowance. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes that there are any unresolved issues requiring the issuance of a final action in any of the claims now pending in the application, it is requested that the Examiner telephone Mr. Kin-Wah Tong, Esq. at (732) 842-8110 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

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